

Application No. 09/678,766

Applicants: Albrecht Dorschner et al.

Request for Reconsideration in Response to Office Action dated August 1, 2003

REMARKS

Applicants respectfully request reconsideration and allowance of this application in view of the amendments presented above and the following comments.

Claims 4-23 and 26-29 are pending. Claim 24 has been canceled. Claim 25 has been withdrawn. Claims 4 and 14 have been amended in response to the rejections under 35 U.S.C. 102. Support for the amendments are found at the bottom paragraph bridging pages 9-10 and the first two paragraphs at page 16 of the specification. The changes that have been made to these claims using strikethrough and underlining are presented above. It is believed that no new matter has been added.

Rejections under 35 U.S.C 102(b)

The Examiner rejected claims 4-23 and 26-29 under 35 U.S.C. 102(b) as being anticipated by Robinson et al. (U.S. Patent No. 5,603,923).

The Examiner rejected claims 4-23 and 26-29 under 35 U.S.C. 102(b) as being anticipated by Alban et al. (U.S. Patent No. 5,318,774).

The Examiner rejected claims 4-23 under 35 U.S.C. 102(b) as being anticipated by Ascione et al. (U.S. Patent No. 5,858,334).

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In response to all these rejections, Applicants would remind the Examiner that anticipation requires that each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference, and, further, the absence in the prior art reference of even a single one of the claim elements is sufficient to negate anticipation.

In re Robertson, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). Applicants submit none of the cited references teach an emulsion and/or microemulsion which is "obtained by a phase inversion induced by varying the pH". Applicants point out that the only cited reference that speaks of phase inversion is the Ascione reference at column 4, lines 6-22, which describes phase inversion being brought about by change in *temperature*, rather than the instantly claimed pH. Accordingly, since none of the references teach an emulsion and/or microemulsion which is "obtained by a phase inversion induced by varying the pH", Applicants submit the claims are not anticipated by each of the cited references.

In view of the foregoing, Applicants submit that the Examiner would be fully justified to reconsider and to withdraw these rejections. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited.

Conclusion

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for immediate allowance.

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However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment under 37 CFR § 1.111 (11 pages total) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: January 26, 2004

By 
David D. Kim